

McGREGOR W. SCOTT  
United States Attorney  
LAURA D. WITHERS  
Assistant United States Attorney  
2500 Tulare Street, Suite 4401  
Fresno, CA 93721  
Telephone: (559) 497-4000  
Facsimile: (559) 497-4099

Attorneys for Plaintiff  
United States of America

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
JOSE FERNANDO GOMEZ-MOREIRA,  
  
Defendant.

CASE NO. 1:20-CR-00151-NONE-SKO

STIPULATION AND ORDER  
FOR PROTECTIVE ORDER REGULATING  
DISCOVERY (FED. R. CRIM. P. 16(d)(1))

Pursuant to Federal Rule of Criminal Procedure 16(d), the United States of America, by and through its undersigned counsel, and defendant Jose Fernando Gomez-Moreira, by and through his undersigned counsel, hereby stipulate and agree, and respectfully request that the Court order that:

1. The United States shall produce additional material in this case to counsel for defendant Gomez-Moreira, containing “G-designated” bates numbers, and any subsequent material discovered by the government to defendant Gomez-Moreira using the “G-designated” bates numbering or otherwise protected designation (referred to throughout this Stipulation as “The Protected Material”). Disclosure of The Protected Material to defendant Gomez-Moreira may be required pursuant to the government’s discovery obligations and, even if not required, will facilitate defense counsel’s representation of his client.

2. The Protected Material is now and will forever remain the property of the United States. The Protected Material is entrusted to counsel for defendant Gomez-Moreira only for purposes of representation during the pendency of this case.

3. The purpose of this Order is to establish the procedures that must be followed by defense counsel of record, any designated employees, and all other individuals who receive access to The Protected Material in connection with this case.

4. Counsel for defendant Gomez-Moreira shall not give The Protected Material to any person other than counsel's staff assisting with this case. The term "staff" shall explicitly include attorneys, paralegals, and investigators assisting counsel for defendant Gomez-Moreira in the present case and exclude any other pending case against defendant Gomez-Moreira, any other counsel hired, retained, or otherwise working on behalf of defendant Gomez-Moreira, or any other person other than those specifically described in this paragraph.

5. Any person receiving access to The Protected Material from counsel for defendant Gomez-Moreira shall be bound by the same obligations as defense counsel and, further, may not give The Protected Material to anyone. No members of defendant Gomez-Moreira's family, friends of defendant Gomez-Moreira, associates of defendant Gomez-Moreira, or other such associates of defendant Gomez-Moreira shall be given access to The Protected Material or its contents in any manner.

6. Counsel for defendant Gomez-Moreira shall not make any copies, duplicates, or any recordings of The Protected Material. Counsel for defendant Gomez-Moreira may, however, take written or typed notes summarizing The Protected Material.

7. Counsel for defendant Gomez-Moreira shall maintain a list of persons to whom any portions or copies of The Protected Material are being or have been given. Such persons shall be provided with a copy of this Stipulation and Order and shall sign their full names to a copy of the Stipulation and agree to be bound by the Order and note that they understand its terms and agree to them by signing.

8. Counsel for defendant Gomez-Moreira may use any and all of The Protected Material in the vigorous defense of defendant Gomez-Moreira in the instant case in any manner deemed essential to adequately represent defendant Gomez-Moreira (i.e., in motions that are filed under seal, if necessary; in *ex parte* applications as may be needed; and in reproducing and summarizing The Protected Material for use in court proceedings as may be needed), consistent with the Protective Order as it shall be originally prepared and signed. In the event defense counsel needs to use The Protected Material in a manner not

1 authorized under the present Proposed Protective Order, counsel shall be entitled to seek to have the  
2 order amended by the District Court after having given notice to counsel for the government in a hearing  
3 before the District Court in order to meet his obligations under the Sixth Amendment to the United  
4 States Constitution.

5 9. Counsel for defendant Gomez-Moreira is authorized to discuss with defendant Gomez-  
6 Moreira the contents of The Protected Material. Counsel for defendant Gomez-Moreira and any  
7 members of counsel's staff, however, are prohibited from, in any way, giving defendant Gomez-  
8 Moreira: any of The Protected Material, itself; copies of The Protected Material; copies of excerpts of  
9 The Protected Material; or summaries of The Protected Material. This prohibition will not extend to  
10 defendant Gomez-Moreira viewing The Protected Material in open court should any of these materials  
11 or summaries thereof be used in the litigation of this case.

12 10. Within thirty days of the finality of the instant case against defendant Gomez-Moreira, as  
13 determined under the Federal Rules of Criminal Procedure and case law from the United States Court of  
14 Appeals for the Ninth Circuit and the United States Supreme Court, counsel for defendant Gomez-  
15 Moreira shall return any and all copies of The Protected Material and so certify to the attorney for the  
16 government.

17 Respectfully submitted,

18 Dated: October 23, 2020

McGREGOR W. SCOTT  
United States Attorney

19  
20 By: /s/ LAURA D. WITHERS  
21 LAURA D. WITHERS  
Assistant United States Attorney

22 Dated: October 23, 2020

23 By: /s/ BENJAMIN A. GERSON  
24 BENJAMIN A. GERSON  
25 Counsel for Defendant Jose  
26 Fernando Gomez-Moreira  
27  
28

**ORDER**

Based upon the agreement of the parties and pursuant to Rule 16(d) of the Federal Rules of Criminal Procedure, the Court adopts the proposed stipulation regulating certain discovery in this case. IT IS HEREBY ORDERED that each of the terms described in the stipulation of the parties shall govern The Protected Material as defined in the stipulation in this case.

IT IS SO ORDERED.

Dated: **October 23, 2020**

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE